

## REMARKS

Claims 1-13 are pending in the above-referenced application. In the office action, the Examiner indicated that claims 11-13 are withdrawn as being directed to a nonelected invention, claims 5-8 are withdrawn as being directed to a nonelected species, claims 1-4 and 9 are rejected under 35 U.S.C. §102, and claim 10 is allowed.

By this paper, Applicants have amended claims 1-3 and added new claims 14-16. Applicants respectfully assert that claims 1-10 and 14-16 are in a condition for allowance.

### OBJECTION TO CLAIM 1

In the Office Action, the Examiner objected to claim 1 due to a typographical error. By this paper, claim 1 is amended to correct this error. Accordingly, withdrawal of the objection is respectfully requested.

### REJECTION OF CLAIMS 1-4 UNDER 35 U.S.C. §102 OVER VITO

Claims 1-4 stand rejected under 35 U.S.C. §102(b) over U.S. Patent No. 5,931,838 to Vito (hereinafter “Vito”). By this paper, claim 1 has been amended to recite that the passageway in the bone plate has an undercut “with a noncircular cross sectional shape perpendicular to an axis of the passageway.” This amendment is supported by the retaining passageway access channels 115, which are most clearly shown in Figure 6A. As set forth in paragraphs [0069] through [0073] of Applicants’ specification, the access channels 115 enable the prongs 440 of the removal tool 400 to access the retaining ring 230. Thus, the retaining passageway access channels 115 extend through the fastener-retaining passageway capture lip 142 and into the fastener-retaining passageway undercut 140, thereby providing the noncircular cross sectional shape now recited by claim 1.

Vito discloses no such noncircular undercut with a noncircular cross sectional shape. Rather, it appears that the wide lower region 128 of the plate hole 125 has a circular profile. Accordingly, claim 1, as amended, is novel over Vito. Withdrawal of the rejection is respectfully requested.

## REJECTION OF CLAIMS 1, 2, 4, and 9 UNDER 35 U.S.C. §102 OVER NAVARRO

Claims 12, 4, and 9 stand rejected under 35 U.S.C. §102(e) over U.S. Patent No. 7,001,389 to Navarro (hereinafter “Navarro”). As set forth previously, claim 1 has been amended to recite that the passageway in the bone plate has an undercut “with a noncircular cross sectional shape perpendicular to an axis of the passageway.” Navarro discloses no such noncircular undercut with a noncircular cross sectional shape. Rather, it is quite clear from Figure 17 that the entire undercut 36 has a circular profile. Accordingly, claim 1, as amended, is novel over Navarro. Withdrawal of the rejection is respectfully requested.

## CONCLUSION

For the reasons identified above, claims 1-4, 9, and 10 are in condition for allowance. Furthermore, claim 1, as amended, is generic to claims 5-8. Applicants therefore respectfully request examination and allowance of claims 5-8. New claims 14-16 depend from claim 10, which has been allowed by the Examiner, and are therefore allowable for the same reasons as claim 10. Accordingly, Applicants respectfully assert that claims 1-10 and 14-16 are in condition for allowance. If there are any remaining issues preventing mailing of a Notice of Allowance, the Examiner is respectfully requested to contact the undersigned.

Dated this the 30<sup>th</sup> day of March 2007.

Respectfully submitted,

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